

### REMARKS

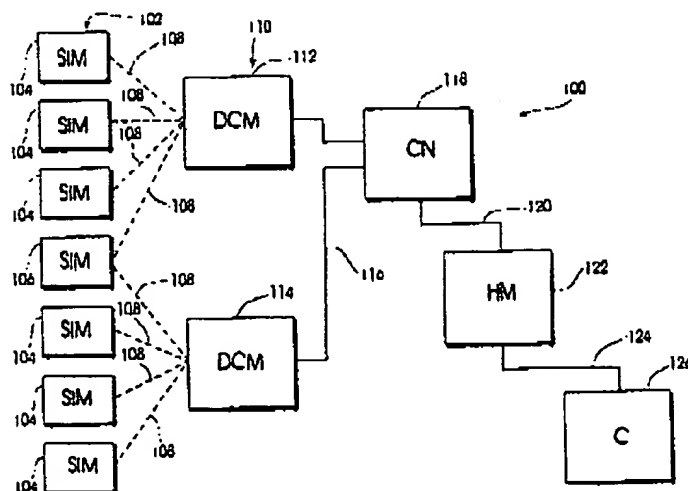
By the *Office Action* of 12 April 2004, Claims 1-27 are pending in this Application, and all stand rejected. By the present *Response and Amendment*, Applicants amend Claims 1, 15, and 23 to clarify Applicants' claimed invention.

Applicants file this *Response and Amendment* in an effort to move this case to allowance. No new matter is believed introduced by the present *Response and Amendment*. It is respectfully submitted that the present Application is in condition for allowance for the following reasons.

#### 1. The Pending Claims

Applicants amend independent Claims 1, 15, and 23 to clarify Applicants' claimed invention. Specifically, Applicants amend these claims to recite that at least one communication path comprises two communications devices each having associated remote devices, thus enabling a communication device having an associated remote device to communicate with a host through an intermediate communication device also associated with a remote device. This feature provides the advantage of enabling a communication device to communicate with a host using other communication devices having associated remote devices.

The cited references fail to teach or fairly suggest this feature of Applicants claimed invention. For example and as shown below, Cunningham et al. discloses SIMs for obtaining sensed data and providing the data to DCMs (FIG. 1).



**The SIMs do not include receivers or transceivers that allow the SIMs to receive information from or communicate with each other. Accordingly, Applicants' currently claimed invention is allowable over the cited references and cited combinations.**

## 2. The Nonstatutory Double Patenting Rejection

The Examiner provisionally rejected Claims 1-27 under the judicially created doctrine of double patenting over Claims 1-29 of co-pending Application No. 09/925,269. In response, Applicants submit a terminal disclaimer to overcome the nonstatutory double patenting rejection.

By submitting the terminal disclaimer, Applicants do not concede that the Examiner's rejection is properly based. Applicants submit the terminal disclaimer solely to advance prosecution of the Application. Applicants also respectfully assert that the filing of the terminal disclaimer does not act as an admission, acquiescence, or estoppel on the merits of obviousness-type double patenting rejection asserted by the Examiner.

## 3. The 35 U.S.C. § 112, First Paragraph Rejection

The Examiner rejected Claims 1-13 under 35 U.S.C. § 112, first paragraph. The Examiner asserts that the "specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to include communication devices into the site controller."

In response, Applicants amend Claim 1 to clarify Applicants' claimed invention. Specifically, Claim 1 now recites that "the second communication network comprises a first communication device associated with a first remote device and a second communication device associated with a second remote device". This clarifying amendment is supported at Page 6, Line 31 through Page 7, Line 5 of the originally filed *Specification*. Applicants, therefore, respectfully assert that Claim 1, and dependent Claims 2-13, comply with § 112, first paragraph. Accordingly, withdrawal of the § 112 rejection is respectfully requested.

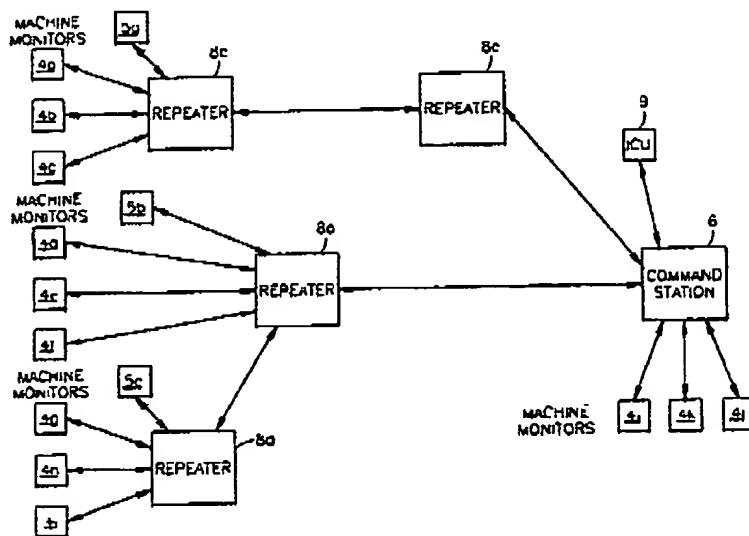
## 4. The Cunningham et al. and Canada et al. Rejection

The Examiner rejects Claims 1-4, 6, 8, 10-12, 15-17, and 20-25 under 35 U.S.C. § 102(e) as being anticipated by Cunningham et al. (U.S. Patent No. 6,124,806) and/or under 35 U.S.C. § 103(a) as being unpatentable over Cunningham et al. in view of Canada et al. (U.S. Patent No. 5,907,491). Applicants respectfully assert that Claims 1-4, 6, 8, 10-12, 15-17, and 20-25 are patentable over Cunningham et al. and/or Canada et al. in light of the above presented clarifying amendments.

The Cunningham et al. system includes multiple sensor interface modules (SIMs) for monitoring remote devices, as shown above. The SIMs transmit remote device information to at least one data collection module (DCM), and the DCM transmits information to a host system (or host module). The SIMs include hardware sensors for the monitored devices, computerized monitoring systems, power supplies, and transmitters.

Importantly, however, the SIMs **do not include receivers or transceivers and can not receive information from other SIMs or communicate with other SIMs**. The SIMs are only capable of transmitting monitored data to one or more DCMs and can not transmit repeated data from other SIMs. Further, while a SIM can be a single path or a multiple path SIM, **they can not and do not communicate with each other**. The Cunningham et al. system, therefore, does not teach or disclose communication paths between communication devices having associated remote devices that include. In other words, Cunningham et al. does not teach that a SIM can communicate with another SIM, while Applicants' claimed invention recites that communication devices associated with remote devices can communicate with each other to form a communication path.

As for Canada et al., Applicants respectfully assert that it does not cure the deficiencies of Cummingham et al. Canada et al. discloses a system for monitoring machines. As shown below, machine monitors monitor data and provide the monitored data to a command station via one or more repeaters (FIG. 1).



Just like Cummingham et al., however, Canada et al.'s machine monitors **do not include receivers or transceivers, can not receive information from other machine monitors or communicate with other machine monitors, and can not pass along repeated data from other machine monitors**.

Applicants amend Claims 1, 15, and 23 to clarify that Applicants' claimed invention enables a communication device associated with a remote device to communicate with a host through an intermediate communication device also associated with a host communication device. This enables a communication path between a communication device and a host if a direct communication path does not exist, and also enables a communication device to repeat data from another communication device associated with a remote device. This limitation is novel over Cunningham et al. and/or Canada et al.

Applicants respectfully submit that the subject matter of the clarifying amendments is not new matter. (*Specification*, Page 6, Line 31—Page 7, Line 5). Applicants, therefore, respectfully submit amended Claims 1, 15, and 23 are allowable over Cunningham et al. and/or Canada et al. because these references do not teach or disclose communication paths between communication devices having associated remote devices.

Applicants respectfully assert that independent Claims 1, 15, and 23 are patentable over the cited references for additional reasons. Indeed, the references teach away from Applicants' claimed invention, and thus can not substantiate the § 103 rejection. Neither Cunningham et al. nor Canada et al. teach or suggest using multiple SIMs or machine monitors in a communication path, or SIMs or machine monitors capable of communicating with each other. Applicants respectfully submit that both Cunningham et al. and Canada et al. teach only to transmit data from SIMs or machine monitors to data collection components, **but not other SIMs or machine monitors.**

Further, the Examiner cites no suggestion, teaching, or motivation to combine Cunningham et al. and Canada et al. to yield Applicants' claimed invention, and the references themselves are silent to such. Neither has the Examiner provided any reasonable expectation of success that Applicants' claimed invention would result from the cited combination.

Applicants, therefore, respectfully assert that independent Claims 1, 15, and 23 and their respective dependent claims are allowable over the cited references. Withdrawal of the § 103 rejection is respectfully requested.

5. **The Cunningham et al./Canada et al. and Johnson et al. Rejection**

The Examiner rejects Claims 5, 9, 13, 14, 18, 19, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Cunningham et al. or Cunningham et al. and Canada et al. as applied to Claims 1-4, 6-8, 10-12, 15-17, and 20-25 in view of Johnson et al. (US Patent No. 5,673,252).

Applicants respectfully assert that in light of the above presented clarifying amendments and arguments that Claims 1, 15, and 23 are allowable. Thus, Applicants respectfully assert that dependent Claims 5, 9, 13, 14, 18, 19, and 26 are allowable for the further limitations contained therein. Withdrawal of the § 103 rejection is respectfully requested.

6. **The Cunningham et al./Canada et al. and Shaughnessy et al. Rejection**

The Examiner rejects Claims 7 and 27 under 35 U.S.C. § 103(a) as being unpatentable over Cunningham et al. or Cunningham et al. and Canada et al. as applied to Claims 1-4, 6-8, 10-12, 15-17, and 20-25 in view of Shaughnessy et al. (US Patent No. 6,141,347). While the Examiner acknowledges that "Cunningham and Canada does not necessarily disclose receiving initialization commands from the plurality of communication devices," the Examiner asserts that Shaughnessy et al. discloses receiving initialization commands from the plurality of communication devices at Column 5, lines 15-32 and FIG. 5.

Applicants respectfully traverse the § 103 rejection. Shaughnessy et al. does not teach or suggest to determine one or more communication paths for each of the communication devices by receiving initialization commands from the plurality of communication devices. Rather, Shaughnessy et al. teaches how a mobile subscriber unit can affiliate with a communication network to receive data. Applicants respectfully assert that allowing a "subscriber unit" to affiliate with a "base station" does determine one or more communication paths for a "subscriber unit." Indeed, Shaughnessy et al. fails to teach or suggest how a "base station" determines a communication path for a "subscriber unit," thus Shaughnessy et al. does not cure the deficiencies of Cunningham et al. and Canada et al.

Applicants also respectfully submit that determining one or more communication paths for communication devices by receiving initialization commands from the plurality of communication devices is patentably distinct from affiliating "subscriber units" with a "base station." For at least these reasons, Applicants respectfully submit that Applicants' claimed invention as recited in Claims 7 and 27 is allowable over the cited combination.

## 7. Fees and Petition for Extension of Time

Applicants believe no claims fees are due, as the total number of Claims, and independent Claims, is equal to the number of Claims paid for upon filing this Application.

This *Response and Amendment* is being filed within five months of the *Office Action*. Thus, Applicants submit herewith a petition for a two-month extension and the two-month extension fee. The Commissioner is authorized to charge the two-month, small-entity extension fee (\$225) and the small-entity, terminal disclaimer fee (\$65) to Deposit Account No. 20-1507.

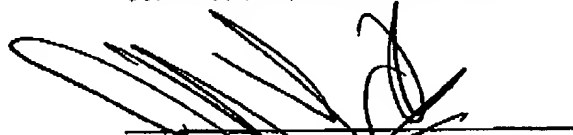
No additional fees are believed to be due; nonetheless, authorization to charge Deposit Account No. 20-1507 is given should additional fees be due.

## CONCLUSION

By the present *Response and Amendment*, the Application has been in placed in full condition for allowance. Accordingly, Applicants respectfully request early and favorable action. Should the Examiner have any questions or reservations, the Examiner is invited to telephone the undersigned Attorney at 404.885.3696.

Respectfully submitted,

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